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13 December 1982

MEMORANDUM FOR: History Advisory Board

FROM: J. Kenneth McDonald
Executive Secretary, History Advisory Board

SUBJECT: Agenda for 15 December 1982 Meeting

REFERENCE: HN 1-187 dated 25 January 1982,
"CIA History Staff"

The Chairman of the History Advisory Board will convene its first meeting at 10:00 a.m. Wednesday, 15 December 1982, in the DCI Conference Room. On the agenda are the following four matters:

1. Consideration of approval for a proposed History Staff study of "Congress and the CIA," for which a prospectus by Dr. [redacted] a staff historian, is attached.
2. Guidance on the feasibility of the History Staff undertaking a historical study of CIA's role in overhead reconnaissance up to about 1970.
3. Progress report on the three DCI studies (for Helms, Schlesinger and Colby) now underway, and notification of Mr. Casey's request that the History Staff now organize similar studies for DCIs McCone, Raborn, Bush and Turner.
4. Arrangements for History Staff access to records and personnel in all four Directorates as provided in reference, the History Staff charter.

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J. Kenneth McDonald

Attachment

PROSPECTUS

CONGRESS AND THE CIA:

The Dilemma of a Secret Agency in an Open Society

The American attitude towards government has not traditionally provided an atmosphere hospitable to a secret intelligence service, for our constitutional system presupposes widely-dispersed power and open debate. Distrustful of centralized power, Americans have generally believed that governmental probity is best assured by each of the three branches of government exercising checks on the other two. But the Central Intelligence Agency poses a special problem for this type of arrangement, since many of its activities must be secret and thus, outside the normal supervisory mechanisms. Not surprisingly, such a situation has evoked congressional suspicion, criticism, and outright hostility from time to time.

But this recounts only half the story. Congress has also turned repeatedly to the CIA for assistance, and the Agency has exerted an important influence in shaping key national security legislation over the past three decades. The relationship between the two is considerably more complicated than simply that of overseer to ward. Through congressional briefings and the dissemination of its intelligence, the CIA has substantively enhanced defense and foreign policy debates, and therefore deserves wider recognition as a prominent contributor to the policy making process.

Seeking to explain this paradoxical conjunction of suspicion and partnership, we propose a study of the relationship between Congress and the CIA since the Agency's creation. An inquiry of this sort will aid in clarifying issues and spotlighting special areas of achievement, controversy, and potential hazard. Numerous questions suggest themselves for consideration. In what ways has the CIA made its voice heard in Congress? How has it successfully competed with other organizations for influence or funds? What role has the Agency played during the past generation in the public debates over important defense issues--the bomber and missile "gaps," Soviet technological capabilities, Cuba, Vietnam, SALT I and II? Has wider dissemination of classified information created significant security problems, and how have Agency officials balanced the demands of security with the desirability of a forthright response to legislative requests? To what extent have individual Presidents influenced the tone of congressional-Agency relations? How might the CIA, given the fragmented, undisciplined, partisan nature of Congress, protect itself from irresponsible or

ill-informed attacks? To what extent have relations with Congress been captive to forces beyond the Agency's control; to what extent can the CIA shape the relationship? And certainly not least in importance, how successfully has the CIA reconciled the anomaly of a secret agency in an open society? These are not merely abstract questions; their answers possess obvious contemporary relevance as well.

This study is designed not for the academic specialist but for the CIA manager or other Agency officer seeking historical perspective and reliable background data. Our intentions are to cover developments through 1977 and the establishment of the two Permanent Select Committees, with a brief epilogue summarizing the period since then. Sources for this investigation will include Agency correspondence, memoranda, and briefing papers; congressional hearings, reports, and debates; and relevant secondary materials to provide context. In addition, interviews with key Agency personnel and others in both the executive and legislative branches will supplement the written record.

* * *

Congress played a central role in the creation of the CIA. The landmark National Security Act of 1947 transformed the inadequate Central Intelligence Group into a Central Intelligence Agency, responsible to the President through the National Security Council. Its primary purposes were to coordinate the intelligence activities of the United States and to advise the NSC in matters relating to intelligence and national security.

Two years later, the Congress passed the equally important Central Intelligence Agency Act, which established many of the subsequently controversial practices followed by the Agency over the next twenty-five years. Under its provisions the CIA gained exemption from any federal law that required disclosure of the organization, functions, names, titles, salaries, or numbers of its employees. In addition, the Agency was authorized to bury its annual appropriations within the budgets of other departments, to transfer funds from other government agencies, and to disregard numerous provisions of statutory law respecting the expenditure and accounting of public monies. The methods followed by the Congress in passing this bill were just as striking. Both Armed Services Committees held hearings in executive session and released only fragmentary reports, noting that much of the testimony they had heard was too sensitive to share with their colleagues and asking Congress to vote on faith for the creation of an agency with unprecedented and largely unsupervised peacetime powers. With the passage of this act in 1949, the basic framework of the CIA was complete.

For the next twenty or so years, most Americans, including most congressmen, possessed few clear ideas about what the Agency was actually supposed to do, and not many asserted a right to know in detail about this aspect of America's national security apparatus. Legislative oversight of the CIA, when it occurred at all, was informal and nominal. The Congress, like the rest of the nation, was gripped by a set of cold war assumptions that seldom questioned the need for an active and relatively unsupervised central intelligence organization. Impressive CIA triumphs in Iran in 1953 and Guatemala a year later easily smothered what little inclination existed to monitor the operations of the Agency. During appropriations time, the principal concern on Capitol Hill was insuring that the Director had as much money as he required.

Until 1956, the only mechanism for congressional oversight consisted of small ad hoc groups of senior congressmen who received annual briefings on CIA activities. No formal review process existed; the exchanges which did take place were characterized more by mutual congratulations and self-satisfied expressions of good will than by any real desire to share the responsibility of supervising the country's intelligence community. Beginning in 1956, the Appropriations and Armed Services committees of each House did establish formal CIA subcommittees, but the tone of the relationship between Congress and the Agency remained one of camaraderie and understanding. Significantly, CIA appearances before the oversight subcommittees were usually called "briefings" rather than "hearings." The nomenclature is revealing. Critics even suggested that far from serving as an instrument of legislative control over the intelligence agency, the system which gradually evolved during the 1950s and 1960s actually acted to shield the organization from effective congressional scrutiny.

But then, most legislators saw little need to pry into CIA operations, for from their perspective the Agency was performing admirably in providing significant services to the nation, and to Congress as well. DCI W. Bedell Smith and his successors, particularly Allen Dulles, realized the importance of staunch congressional allies, and each was careful to insure that the appropriate members received timely briefings on potentially sensitive matters. In the mid-1950s, for instance, the CIA's Office of National Estimates, by successfully challenging the Air Force's alarmist assessments of Soviet long-range bomber capabilities, dissuaded Congress from allocating huge sums on unnecessary countermeasures. On a more frequent if less dramatic basis, the Agency often briefed congressmen preparing to travel abroad and solicited their observations upon their return.

CIA efforts to cultivate friendly relations with the legislators were centered in the Office of General Counsel or, after 1961, in a separate Office of Legislative Counsel. For

most of the Agency's initial two decades, liaison with Congress was the special province first of Walter Pforzheimer and then of John Warner. The CIA repeatedly benefited from the continuity Pforzheimer and Warner represented, for this allowed time for the development of intimate ties with influential figures on the Hill such as Richard Russell, Carl Hayden, and Carl Vinson. OGC and OLC staff members coordinated all Agency contacts with congressmen and senators, planned briefings, arranged for visits to Agency facilities by key legislators, and responded to congressional inquiries. Occasionally they prepared committee reports and speeches for congressional supporters as well. One particularly demanding activity for the OLC was an item-by-item review of each measure introduced in Congress and of all reports resulting from legislative and investigative hearings, to insure that nothing inimical to Agency interests accidentally slipped by. In 1966, for example, OLC staffers analyzed 10,000 bills, 1,900 reports, and 34,000 pages of the Congressional Record. Finally, the OLC assumed primary responsibility for drawing up legislation to meet the Agency's needs, and then for shepherding it through Congress.

More often than not during the CIA's first quarter century, such attention to detail paid dividends in the form of favorable congressional action on matters affecting the Agency. Following passage of the National Security Act in 1947 and the Central Intelligence Agency Act two years later, the CIA required relatively little in the way of additional legislation from Congress. From time to time, however, the Agency did carry requests to Capitol Hill. Matters relating to the CIA retirement system have arisen periodically. Agency employment of military personnel and foreign service officers has also necessitated congressional action on several occasions. Other legislative activity has been called for as a result of proposed measures applicable to all government agencies, but from which the CIA wished special exemption. Bills pertaining to employee benefits and civil service regulations have comprised the most frequent types in this category. In recent years the successive versions of the Freedom of Information Act have created a great deal of time-consuming work for legislative liaison staffers. Finally, the Agency desire to build a new headquarters in Langley demanded close cooperation over a lengthy period of time with various congressional committees.

Congress also demonstrated its receptivity to the particular requirements of the CIA during the annual appropriations process. Usually the Director appeared before the special CIA subcommittees of the two Appropriations committees with budget requests for the coming year broken down into general functional categories. After cursory examination and a few unfocused questions about Agency activities, the subcommittees invariably endorsed the DCI's figures, which were then carefully concealed in the budgets of other departments. Neither public disclosure

nor floor debate of these requests was permitted, despite the fact that such secrecy made it impossible to determine if Agency expenditures were in compliance with the law. Similarly, even those congressmen charged by their colleagues with oversight responsibilities were not always allowed access to these figures by the subcommittee chairmen, thereby precluding any attempt to compare CIA spending with that of other agencies or to analyze the internal ordering of CIA priorities. On the other hand, this tight-lipped approach did satisfy Agency security needs and corresponded closely to its preference for minimal outside interference in CIA affairs. That the congressional leadership acceded to--indeed, promoted--these procedures year after year illustrates the high regard with which the Agency was held upon the Hill, as well as the cozy nature of the ties between the intelligence organization and senior legislators.

The esteem with which most congressmen viewed the CIA also served to protect it from the worst ravages of McCarthyism. Of all the agencies within the federal government attacked by the Wisconsin senator, the CIA was virtually the only one to resist his assaults successfully. Allen Dulles openly defied McCarthy's slurs, had Senate subpoenas quashed, and mobilized congressional supporters, ultimately forcing McCarthy to back down. Dulles' integrity and courage won him and the Agency still greater respect from the large number of senators made uncomfortable by at least the more reckless accusations of their flamboyant colleague.

For almost a quarter century, then, the CIA enjoyed a tolerance and freedom from restraint bred of congressional confidence in the Agency's leadership and product, which in turn stemmed in large measure from the basic foreign policy consensus which prevailed throughout these years. Longtime CIA officials would later look back upon this period as a golden era--and in a sense it was. Secure in the public's confidence, exempt from standard disclosure and accounting regulations, the Central Intelligence Agency remained remarkably free from the checks the legislative branch normally places on operations of the executive.

But a price accompanied this independence. Undoubtedly Agency officials found their wide latitude for action convenient; few recognized that it also harbored the potential for serious trouble. The possession of power sufficient to achieve great purposes meant that the CIA also wielded enough power to damage seriously the prestige and interests of the United States. Such a state of affairs, especially in light of the traditional American suspicion of power exercised in secret, was not conducive to permanent legislative complacency. Nor was being expected to vote large sums of money blindly calculated to soothe congressional concerns. Inevitably, proud sensibilities became ruffled, and few within the Congress had enough knowledge to deflect criticism of the Agency or refute erroneous accusations.

When senior members of the House Armed Services Committee pleaded ignorance even of the existence of a CIA subcommittee, confidence in the current oversight procedures was further eroded. In effect, the Agency, in circumventing the customary system of checks, had rendered itself vulnerable to criticism without arming its would-be defenders with enough information to offer convincing rebuttals. That such a situation eventually raised congressional ire is hardly surprising.

Moreover, a new mood of skepticism and self-assertiveness pervaded Congress by the second half of the 1960s. These years witnessed the collapse of the consensus which had undergirded America's cold war policies for two decades. A partial if halting rapprochement with the Soviet Union, growing domestic opposition to the war in Vietnam, incontrovertible evidence of a far-reaching split in the global communist movement, and a rising dissatisfaction with the results of twenty years of interventionism all coalesced to challenge the assumptions which had dominated foreign policy debates since the end of World War II. And as an important instrument of the orthodoxy now being questioned, the CIA naturally attracted new interest.

Institutional issues also intruded to undermine the privileged position the Agency had traditionally enjoyed. Until the late 1960s, a small group of committee chairmen ruled Congress with virtually unchallengeable authority. Often holding "safe" seats in the one-party South, individuals such as Representatives Vinson, Cannon, and Rivers, and Senators Russell and Hayden gradually built up seniority and came to possess an almost feudal suzerainty over their colleagues. Ensnioned in the strategic Armed Services and Appropriations committees, these men were astutely cultivated by a succession of DCIs, and it was their indulgence which allowed the CIA to escape close legislative scrutiny for two decades. But by 1969, Russell, Hayden, Vinson, and Cannon had all departed, and their successors found it impossible to ignore the demands for congressional reform voiced by those resentful of the arbitrary power the old chairmen had wielded. Over the next few years both Houses adopted new rules, including a number making it much more difficult for a handful of senior figures to shield the CIA as Russell and the others had done.

To complicate matters further, the Agency also found itself the inadvertent victim of a bitter quarrel between Congress and the White House over the rightful division of powers in foreign affairs. As the cold war consensus fragmented, Congress moved to regain many of the responsibilities it had abdicated to the executive branch since Franklin Roosevelt's day. Voicing fears of an "imperial Presidency," the lawmakers sought to legislate limits to the President's freedom of action in world affairs in a variety of ways. In June 1970, for instance, 58 Senators

voted in favor of the Cooper-Church amendment, which sharply restricted White House ability to fund military action in Cambodia. Three months later, a switch of only nine votes would have resulted in a Senate prohibition against the use of public monies to keep American troops in Vietnam beyond 1971. Both these actions, and others akin to them, reflected a congressional conviction that a grave imbalance between executive and legislative powers had developed over the preceding generation.

As a consequence, moves to require a more rigorous scrutiny of CIA activities must be seen as part of this broader attempt to reverse presidential "encroachment" upon congressional prerogatives. Pressure from the lawmakers, for instance, forced the Nixon administration in 1971 to terminate covert CIA funding for Radio Free Europe and Radio Liberty. In the Senate, William Fulbright and Eugene McCarthy led efforts to expand the existing oversight subcommittees so as to include members of the Committee on Foreign Relations. The persistent calls for the creation of a joint CIA watchdog committee garnered wider support in both Houses. Not all suggestions for a joint committee were hostile; some congressmen viewed such a body as a means to defend the CIA from unwarranted attacks and to stave off bothersome questions from unwitting or unfriendly colleagues. On the whole, however, these legislative initiatives indicated that relations between Congress and the Agency had entered a more troubled period.

Hoping to maintain the substance of their independence, CIA officials responded to these altered circumstances with only limited countermeasures. Noting that even staunch congressional friends were leaning toward a more narrow concept of the Agency's mission, the OLC annual report for 1972 conceded the necessity of giving tactical ground in order to forestall restrictive legislation. In retrospect, however, Agency actions appear circumscribed and unimaginative. It initiated a programmed effort to brief all new members of Congress. Senior officials and OLC staffers expanded the number of their formal appearances on Capitol Hill. The Agency disseminated its reports and estimates to a wider audience. But in the main, the Legislative Counsel concluded early in 1973, "we must rely on the professionalism of our operations, on the integrity of our product, and on our responsiveness to the legitimate interests and demands of both the Legislative and the Executive Branches to see us through [this] patch of political turbulence."

Unfortunately for the Agency, a series of spectacular revelations and accusations between 1973 and 1976 dramatically demonstrated the inadequacy of these CIA defense measures. Even earlier, a widely publicized Ramparts story disclosing that the CIA had systematically financed a domestic student organization for nearly fifteen years had stirred congressional

concern. Public discussion a short time later of the Agency's role in building up an army of Meo tribesmen in Laos as part of the American war effort in Southeast Asia added to the growing anxieties of those who worried that perhaps the CIA had gotten out of control. And then, in rapid succession, came allegations that the Agency had been implicated in the Watergate break-in and cover-up, that it had been deeply involved in the overthrow and subsequent death of Chilean President Allende, and that it had organized and run an extensive program of domestic surveillance in blatant disregard of statutory prohibitions forbidding such activity. Stunned by these charges, both Houses of Congress moved to establish select committees with broad mandates to determine whether the CIA and the nation's other intelligence agencies had been involved in improper or illegal activities.

The subsequent investigations by the Church and Pike Committees mark the nadir in the history of congressional-Agency relations. Lurid accounts of assassination attempts, drug testing, mail openings, and other abuses fostered the impression that the CIA had engaged in a systematic and widespread pattern of unlawful and immoral practices over many years. Many Congressmen--indeed, many Americans--were only too ready to believe the worst. As President Nixon's arbitrary abuses of authority and his resort to secretive methods of governing became common knowledge in the wake of the Watergate hearings, many found it logical to suspect that vast misdeeds had occurred in that most secret of agencies, the CIA, as well. Moreover, those who opposed administration policy in Southeast Asia feared that the White House was misusing the Agency's unique position to circumvent Congress' will. Amidst this general atmosphere of distrust, few heeded the findings of the Pike Committee, which though condemnatory of the CIA in many respects, nonetheless concluded, "All evidence in hand suggests that the CIA, far from being out of control, has been utterly responsive to the President and the Assistant to the President for National Security Affairs."

Congress responded to these sensational disclosures with the 1974 enactment of the Hughes-Ryan amendment, designed to provide closer oversight over Agency covert operations. This legislation directed that the CIA could expend funds overseas only for intelligence-gathering purposes, unless the President found that other tasks were important to American national security and reported to Congress "in a timely fashion" the description and scope of each such assignment. Almost immediately a half dozen or more congressional committees claimed the right to be so informed, creating a situation one former ranking Agency officer termed "absurd," and leading him to write in 1976 that this provision had resulted in "almost every important project so briefed leaking to the public immediately and being dropped."

The legislators also took steps to increase their authority over Agency appropriations and spending. In 1973, following DCI Colby's admission that disclosure of the aggregate CIA budget figure would not create a security problem, Senator William Proxmire introduced legislation which would have required the Agency to publish its annual budget. The Senate defeated this proposal, but Senator John McClellan, chairman of the Appropriations Committee and hardly a radical, then proceeded to offer the specifics of the CIA budget to any member who desired them. By 1975, the claims advanced by the four oversight subcommittees to exclusive knowledge of the Agency's budget had been summarily pushed aside, although a detailed breakdown of its annual appropriations was not yet routinely made available to all congressmen.

Seeking a more powerful voice in CIA affairs, and determined that the abuses of the past--real and alleged--not be repeated, the Senate in 1976 created a permanent Select Committee on Intelligence to monitor the intelligence-related activities of the government. In July 1977, the House followed suit. Many CIA officials, bitter over the sometimes unfair accusations of congressional critics, and skeptical of any legislative body's ability to understand the particular problems of an intelligence organization, greeted the establishment of these two committees with suspicion and at times outright hostility. Gradually, however, the relationship between the Agency and the oversight committees has matured and become easier for both parties. It appears clear, though, that there will be no return to the former system of congressional neglect and a largely unrestricted existence for the CIA. The first era in the Agency's dealings with the outside world has come to an end.

There exists, however, a certain paradox to the sweeping criticism of these years. At the same time that many in the Congress gave indications of accepting the allegations of improper CIA behavior, the Agency also faced new calls for wider circulation of its intelligence product. Presumably this indicated continuing respect for the quality of CIA work. In 1974, the DDI found it necessary to set up a special Congressional Support Staff to handle this flood of requests. Agency officials, ever mindful of Congress' reputation as a sieve, worried about the security implications of such exchanges, but at the same time recognized that the arcane nature of much of the information needed by the legislators in considering esoteric questions of weaponry performance and verification procedures assured their organization a substantial role in the policy making process. In 1979, for example, the CIA was drawn into the very center of the SALT II debate, particularly regarding questions about the U.S. capability to monitor Soviet compliance with treaty provisions. Currently, numerous inquiries about and requests for briefings on Lebanon illustrate Congress' continuing reliance on Agency expertise.

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Clearly, then, a study such as the one we propose will combine elements of both partnership and conflict. The latter is the better known, but the former may be the more significant. At a minimum, our inquiry may suggest means to augment the cooperation and lessen the friction endemic to congressional-Agency relations. As long as defining the exact role Congress should play in CIA affairs remains an ongoing process, such knowledge will have a more than theoretical utility.

A brief outline of the chapter headings follows.



STAT

CONGRESS AND THE CIA:

The Dilemma of a Secret Agency in an Open Society

Introduction: Patterns of Executive-Legislative Rivalry

I. Creation of the Agency: 1940-49

- A. Background
- B. National Security Act of 1947
- C. Central Intelligence Agency Act of 1949
- D. Initial congressional ideas regarding oversight

II. Setting Patterns: 1949-55

- A. Establishment and operation of legislative liaison branch, OGC
- B. Legislative concerns
- C. Patterns of congressional oversight--covert operations, the budgetary process
- D. Agency contributions to national security debates
- E. Smith and Dulles confirmation hearings
- F. Dulles and Congress: the personal equation
- G. McCarthyism

III. Relative Tranquility: 1955-66

- A. Hoover Commission--Clark Task Force--Doolittle Commission
- B. Calls for more formalized oversight--Mansfield Resolution, creation of CIA subcommittees, McCarthy Resolution
- C. New headquarters
- D. IG study and creation of OLC
- E. Other legislative concerns
- F. Intelligence controversies--"bomber gap," Sputnik, U-2, Bay of Pigs, Cuban missile crisis
- G. McCone and Raborn confirmation hearings

IV. Seeds of Discord: 1966-72

- A. Helms confirmation hearings
- B. The new assertiveness in Congress
- C. Breakdown of the foreign policy consensus
- D. Ramparts disclosures
- E. Lao "secret army"
- F. Tentative efforts to monitor CIA activities
- G. Agency defense measures
- H. Involvement in national security debates--ABM, SALT I
- I. Other legislative concerns
- J. The price of autonomy

V. The Agency Under Siege: 1972-77

- A. Watergate
- B. Schlesinger and Colby confirmation hearings
- C. Chile
- D. Domestic surveillance activities
- E. Church and Pike Committee investigations
- F. Monitoring of covert activities--Hughes-Ryan Amendment
- G. Financial oversight
- H. Creation of Permanent Select Committees
- I. Bush confirmation hearings
- J. Intelligence sharing--new roles for DDCI and DDO
- K. Continued centrality in policy making
- L. Impact of investigations on Agency
- M. Turner confirmation hearings

VI. Epilogue: Congress and the Agency since 1977